

AMENDED IN ASSEMBLY MARCH 20, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2606

Introduced by Assembly Member Dababneh

February 21, 2014

~~An act to amend Section 103 of the Revenue and Taxation Code, relating to taxation.~~ *An act to add and repeal Section 17053.81 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2606, as amended, Dababneh. ~~Property taxation: property: definition.~~ *Income taxes: credit: long-term care.*

The Personal Income Tax Law allows various credits against the taxes imposed by that law.

This bill would, for each taxable year beginning on or after January 1, 2015, and before January 1, 2020, allow a credit to a taxpayer in an amount equal to \$500 multiplied by the number of applicable individuals, as defined, with respect to whom the taxpayer is an eligible caregiver during that taxable year.

This bill would take effect immediately as a tax levy.

~~Existing property tax law defines property to include all matters and things, real, personal, and mixed, that are capable of private ownership.~~

~~This bill would make technical, nonsubstantive changes to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 17053.81 is added to the Revenue and*
2 *Taxation Code, to read:*

3 17053.81. (a) *For each taxable year beginning on or after*
4 *January 1, 2015, and before January 1, 2020, there shall be*
5 *allowed to a taxpayer as a credit against the “net tax,” as defined*
6 *in Section 17039, an amount equal to five hundred dollars (\$500)*
7 *multiplied by the number of applicable individuals for whom the*
8 *taxpayer is an eligible caregiver during the taxable year.*

9 *(b) For purposes of this section:*

10 (1) (A) *“Applicable individual” means an individual who has*
11 *been certified before the due date for filing the return of tax,*
12 *without extensions, for the taxable year by a physician as being*
13 *an individual with long-term care needs for a period of time that*
14 *is at least 180 consecutive days and a portion of that time occurs*
15 *within the taxable year.*

16 (B) *“Applicable individual” shall not include an individual*
17 *otherwise meeting the requirements of subparagraph (A) unless*
18 *within the preceding 39½ month period ending on the due date in*
19 *subparagraph (A) a physician has certified that the individual*
20 *meets those requirements.*

21 (2) *“An individual with long-term care needs” means an*
22 *individual who meets any of the following:*

23 (A) *The individual is at least six years of age and meets either*
24 *of the following:*

25 (i) *The individual is unable to perform at least three activities*
26 *of daily living, as defined in Section 7702B(c)(2)(B) of the Internal*
27 *Revenue Code, without substantial assistance from another*
28 *individual due to a loss of functional capacity.*

29 (ii) *The individual requires substantial supervision to protect*
30 *that individual from threats to health and safety due to severe*
31 *cognitive impairment and is unable to perform at least one activity*
32 *of daily living, as defined in Section 7702B(c)(2)(B) of the Internal*
33 *Revenue Code, or the individual is unable to engage in age*
34 *appropriate activities, to the extent provided by the Franchise Tax*
35 *Board in consultation with the Secretary of the California Health*
36 *and Human Services Agency.*

37 (B) *The individual is at least two years of age but less than six*
38 *years of age and is unable to perform without substantial assistance*

1 *from another individual due to a loss of functional capacity at*
2 *least two of the following activities: eating, transferring, or*
3 *mobility.*

4 *(C) The individual is under two years of age and requires*
5 *specific durable medical equipment by reason of a severe health*
6 *condition or requires a skilled health care practitioner trained to*
7 *address the individual's condition to be available if the individual's*
8 *parents or guardians are absent.*

9 *(3) "Physician" has the same meaning as that term is defined*
10 *in Section 1935x(r)(1) of the Internal Revenue Code.*

11 *(c) (1) A taxpayer shall be treated as an "eligible caregiver"*
12 *for each taxable year for any the following applicable individuals:*

13 *(A) The taxpayer.*

14 *(B) The taxpayer's spouse.*

15 *(C) An individual for whom the taxpayer is allowed a credit*
16 *under subdivision (d) of Section 17054 for the taxable year.*

17 *(2) The requirements of this subdivision are met if an applicable*
18 *individual has as his or her principal place of abode the home of*
19 *the taxpayer and either of the following:*

20 *(A) In the case of an applicable individual who is an ancestor*
21 *or descendant of the taxpayer or the taxpayer's spouse, the*
22 *applicable individual is a member of the taxpayer's household for*
23 *over half the taxable year.*

24 *(B) In the case of any other applicable individual, the applicable*
25 *individual is a member of the taxpayer's household for the entire*
26 *taxable year.*

27 *(3) (A) Only one taxpayer shall be treated as an eligible*
28 *caregiver for an applicable individual. If more than one taxpayer*
29 *qualifies as an eligible caregiver for an applicable individual for*
30 *taxable years ending with or within the same calendar year, the*
31 *taxpayer who will not claim the applicable individual shall file a*
32 *written declaration, in the form and manner as the Franchise Tax*
33 *Board may prescribe, stating that he or she will not claim the*
34 *applicable individual for the credit allowed under this section.*

35 *(B) If no declaration is filed under subparagraph (A), the*
36 *taxpayer with the highest federal modified adjusted gross income,*
37 *as defined in Section 32(c)(2) of the Internal Revenue Code, shall*
38 *be treated as the eligible caregiver.*

39 *(C) In the case of married individuals filing separate returns,*
40 *the determination as to which taxpayer is the eligible caregiver*

1 shall be made pursuant to subparagraph (B), regardless of whether
2 or not one of them has filed a written declaration pursuant to
3 subparagraph (A).

4 (d) (1) A credit shall not be allowed under this section unless
5 the taxpayer includes the name and taxpayer identification number
6 of the eligible individual and the identification number or national
7 provider identifier of the physician certifying the applicable
8 individual on the return of tax for the taxable year.

9 (2) The denial of any credit under paragraph (1) may be made
10 pursuant to Section 19051.

11 (e) The taxpayer shall retain the physician certification required
12 pursuant to paragraph (1) of subdivision (b) for three years and
13 shall make that certification available to the Franchise Tax Board
14 upon request during that period.

15 (f) A credit shall not be allowed under this section for any
16 eligible caregiver whose adjusted gross income for the taxable
17 year is equal to or greater than one hundred thousand dollars
18 (\$100,000) in the case of a married couple filing a joint return,
19 and fifty thousand dollars (\$50,000) in the case of all other
20 individuals.

21 (g) This section shall remain in effect only until December 1,
22 2020, and as of that date is repealed.

23 SEC. 2. This act provides for a tax levy within the meaning of
24 Article IV of the California Constitution and shall go into
25 immediate effect.

26 ~~SECTION 1. Section 103 of the Revenue and Taxation Code~~
27 ~~is amended to read:~~

28 ~~103. "Property" includes all those matters and things, real,~~
29 ~~personal, and mixed, that are capable of private ownership.~~